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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,463	10/20/2003	Hans Michael Ockenfels	01840.0001-US-01	4148

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EXAMINER

SHAY, DAVID M

ART UNIT PAPER NUMBER

3735

DATE MAILED: 12/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/689,463	<b>Applicant(s)</b> OCKENFELS	
	<b>Examiner</b> david shay	<b>Art Unit</b> 3735	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on September 25, 2006.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8,10,11,14-20,22 and 23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8,10,11,14-20,22 and 23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 25, 2005 has been entered.

Applicant argues that "there is no hint to regulate the UV radiation depending on the epidermis thickness." in Anderson et al. The examiner must respectfully disagree. Anderson et al disclose using the fluorescence generated by the treatment pulse to determine whether or not an additional treatment pulse should be directed to the plaque (see column 15, lines 37-48), the fluorescence from which is then used to determine whether or not another further pulse should be directed to the affected area. Thus clearly, thicker plaques will exhibit fluorescence after more treatments than thinner plaques and will subsequently be provided with greater doses during treatment.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-7, 11, 14, 16-19, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al in combination with Chernoff and Sator et al. Anderson et al teaches treatment of psoriasis wherein the skin is tested, e.g. by determining skin thickness to determine psoriatic areas and the areas are exposed to treatment radiation, preferably so as not to cause blister formation, wherein the fluorescence generated by the treatment pulse is used to determine whether or not an additional treatment pulse should be directed to the plaque (see column 15, lines 37-48). Chernoff teaches a device and method for treating the skin wherein the

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skin depth is determined at each point of treatment and the treatment laser power is adjusted for the depth at each point. Sator et al teach that PUVA treated skin experiences accelerated thinning, which is correlated with the PUVA compared to the skin of people who have not undergone PUVA and that ultrasound is a sensitive and non-invasive method for determining skin thickness. It would have been obvious to the artisan of ordinary skill to use ultrasound to measure the skin thickness of patients in the method of Anderson et al, since this is a sensitive and non-invasive measure, as taught by Sato et al, and to employ the laser-ultrasound cooperation steps of Chernoff in the method, since this would enable the dosages to be minimized for each patient by preventing the dosing of unaffected skin, thus producing a device and method such as claimed.

Claims 8, 10, 20, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al in combination with Chernoff and Sator et al as applied to claims 1-7, 11-19, and 23 above, and further in combination with Mueller et al. Mueller et al teach the incorporation of a laser and ultrasound applicator in a single instrument. It would have been obvious to the artisan of ordinary skill to provide the laser and ultrasound applicator in the combined method of Anderson et al in combination with Chernoff and Sator et al, since the separated ultrasound and laser applicators and combined applicators are equivalents, as shown by Mueller et al, or, alternatively, to employ the combined method of Anderson et al in combination with Chernoff and Sator et al in the method of Mueller et al, since Mueller et al discuss no therapy for any particular condition and in either case, to employ a mirror arm to conduct the radiation, since this is equivalent to the use of fiber optics and can more efficiently transmit ultraviolet light, official notice of which is hereby taken, thus producing a device such as claimed.

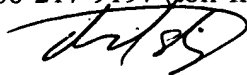
Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al in combination with Chernoff and Sator et al as applied to claims 1-7, 11-19, and 23 above, and further in combination with Bonis et al. Bonis et al teach increasing the dosage of UV light in psoriasis plaques that do not respond to a base level of therapy, and continuing the increase until a response is seen. It would have been obvious to the artisan of ordinary skill to employ the dosage increase technique of Bonis et al in the combined method of Anderson et al in combination with Chernoff and Sator et al, since this yields better results, as taught by Bonis et al, thus producing a method and device such as claimed.

Applicant's arguments filed on September 25, 2005 have been considered but are not convincing. The arguments are not convincing for the reasons set forth above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to david shay whose telephone number is (571) 272-4773. The examiner can normally be reached on Tuesday through Friday from 6:30 a.m. to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco, can be reached on Monday through Friday. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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